

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Robert M. Jones et al.	Art Unit :	1624
Serial No. :	10/541,657	Examiner :	Jeffrey H. Murray
Filed :	March 3, 2006	Conf. No. :	4098
Title :	1,2,3-TRISUBSTITUTED ARYL AND HETEROARYL DERIVATIVES AS MODULATORS OF METABOLISM AND THE PROPHYLAXIS AND TREATMENT OF DISORDERS RELATED THERETO SUCH AS DIABETES AND HYPERGLYCEMIA		

**MAIL STOP AF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PROVISIONAL NOTICE OF APPEAL**

**I. Notice of Appeal**

If the present application remains under final rejection pursuant to the Office Action dated May 13, 2010, and a response to that Office Action remains due, Applicants hereby appeal to the Board of Patent Appeals and Interferences from the rejection of claims 1-3, 12-14, 16-61, 73, 74 and 78 and request a three month extension of time under 37 CFR §1.136.

Applicants understand, however, that no response from Applicants is currently due as a result of a Decision on Applicants' Petition dated August 13, 2010 withdrawing the finality of the Office Action dated May 13, 2010 and entering Applicants' Amendment which was filed on August 13, 2010.

Since Applicants have not yet had the opportunity to review the Petition Decision to confirm that the finality of the Office Action has been withdrawn and the Amendment has been entered, Applicants are filing the present Provisional Notice of Appeal to preserve Applicants' rights and to confirm Applicants' intent to maintain the present application.

**II. Interview Summary**

On November 12 and 14, 2010, Applicants' undersigned representative discussed the status of the present application by telephone with Ms. Julie Burke, Quality Assurance Specialist, Technology Center 1600. The topic of the discussion was the status of Applicants' Petition which was filed on August 13, 2010.

Applicants' representative understood Ms. Burke as indicating that a Petition Decision was issued with a mail date of November 12, 2010 granting Applicants' Petition. Applicants representative was informed that in granting the Petition, the Director withdrew the finality of the Office Action dated May 13, 2010, entered Applicants' Amendment dated August 13, 2010, and forwarded the application to the Examiner for further action.

Applicants note that the Office's PAIR system confirms that a Petition Decision granting Applicants' petition was issued on November 12, 2010 in the above-referenced application (see below), but as of the time of filing this paper, no copy of the Petition Decision has been posted to the Image File Wrapper.

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10/541,657

1,2,3-Trisubstituted aryl and heteroaryl derivatives as modulators of metabolism and the prophylaxis and treatment of disorders related thereto such as diabetes and hyperglycemia

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**Transaction History**

Date	Transaction Description
11-12-2010	Mail-Petition Decision - Granted
11-10-2010	Petition Decision - Granted
08-13-2010	Petition Entered
10-14-2010	Email Notification

### III. Fees

If the finality of the Office Action dated May 13, 2010 has been withdrawn and Applicants' Amendment of August 13, 2010 has been entered pursuant to the Petition Decision, as indicated in the interview, Applicants understand that no further response from Applicants and no fees are currently due.

Applicant : Robert M. Jones et al.  
Serial No. : 10/541,657  
Filed : March 3, 2006  
Page : 3 of 3

Attorney's Docket No.: 20750-0007US1 / 034.US5.PCT

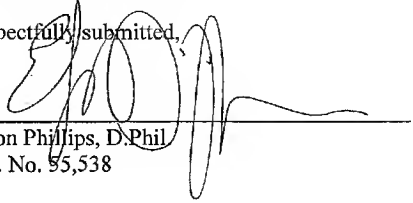
The Office is authorized, however, to apply any charges or credits that are due, including any fee that may be required for a Notice of Appeal and Extension of Time, to Deposit Account No. 06-1050.

Date: November 15, 2010

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Respectfully submitted,



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